

Regular Session, 2010

SENATE BILL NO. 437

BY SENATOR APPEL

PUBLIC CONTRACTS. Provides for recovery of attorney fees and costs relative to contracts for public works and private works if fraud is alleged in non-residential contracts and not proven after the five-year preemptive period has run. (8/15/10)

AN ACT

To amend and reenact R.S. 9:2772(H)(2), relative to contracts; to provide for recovery of attorney fees and court costs in certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2772(H)(2) is hereby amended and reenacted to read as follows:

§2772. Preemptive period for actions involving deficiencies in surveying, design, supervision, or construction of immovables or improvements thereon

* * *

H.(1) * * *

(2) In any such action in which fraud is alleged, that issue shall be decided by trial separate from and prior to the trial of any or all other issues. **However, if fraud is alleged in non-residential contracts and the court determines that the allegation was brought in bad faith, then that party shall be liable for court costs and attorney fees.**

* * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cathy R. Wells.

DIGEST

Present law (R.S. 9:2772) grants a 5-year preemptive period for actions against contractors in general involving deficiencies in surveying, design, supervision, or construction of immovables or improvements thereon, but exempts from such preemptive period any action against any such contractor whose fraud has caused the breach of contract or damages sued upon.

Proposed law retains present law and authorizes the recovery of court costs and attorney fees for non-residential contracts if fraud is alleged and the court determines that the allegation was brought in bad faith.

Effective August 15, 2010.

(Amends R.S. 9:2772(H)(2))